

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

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Re: Case No. 11-5128, *Pearlie Green, et al v. Mutual of Omaha Insurance Comp*  
Originating Case No. : 2:10-CV-2487

Dear Counsel,

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Michelle M. Davis  
for Patricia Elder, Senior Case Manager  
Direct Dial No. 513-564-7025

cc: Mr. Thomas M. Gould

Enclosure

Mandate to issue

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION  
File Name: 12a1038n.06

No. 11-5128

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

**FILED**  
*Sep 28, 2012*  
DEBORAH S. HUNT, Clerk

PEARLIE M. GREEN; GREGORY A. BURKS, )  
Plaintiffs-Appellants, )  
v. )  
MUTUAL OF OMAHA INSURANCE COMPANY, )  
Defendant-Appellee. )  
\_\_\_\_\_  
ON APPEAL FROM THE  
UNITED STATES DISTRICT  
COURT FOR THE WESTERN  
DISTRICT OF TENNESSEE

BEFORE: BOGGS and GRIFFIN, Circuit Judges; and BARZILAY, Judge.\*

PER CURIAM.

In this diversity insurance-contract dispute arising under Tennessee law, plaintiffs Pearlie M. Green and Gregory A. Burks appeal the district court's order granting defendant Mutual of Omaha Insurance Company's motion to dismiss plaintiffs' complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Plaintiff Green applied for and obtained an Accidental Death Insurance Policy from Mutual. The policy covered the applicant, the applicant's "Spouse," and the applicant's dependent children. On the insurance application, Green listed Robert Billups as her spouse and plaintiff Burks as the beneficiary. As it turned out, Green and Billups were not legally married. Thus, when Billups died in a motorcycle accident two years later, Mutual, after a brief investigation

\*The Honorable Judith M. Barzilay, Senior Judge, United States Court of International Trade, sitting by designation.

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of the matter, denied coverage and refused to pay benefits arising from his death because he was not an insured person under the policy.

Plaintiffs filed a lawsuit in the Tennessee state court alleging seven claims, including, *inter alia*, breach of contract, violation of the Tennessee Consumer Protection Act, and fraud. Mutual removed the case to federal district court on the basis of diversity of citizenship and then filed a Rule 12(b)(6) motion to dismiss the complaint. The district court granted defendant's motion as to all of the claims and dismissed the complaint in its entirety. Plaintiffs now appeal.

After reviewing the record, the parties' briefs, and the applicable law, this court determines that a panel opinion further addressing the issues raised would serve no jurisprudential purpose. We therefore affirm the district court's decision for the reasons stated in that court's opinion.

AFFIRMED.